

Law as a Means of Supply Chain Rural Modernization and Development Management in Indonesia during Reformation Era (Case Studies in Villages in West Java Province)

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Abstract— Could law possibly be a means of supply chain rural modernization and development in Indonesia? As a comparison, South Korea with its *saemaul undong* is capable of developing supply chain rural areas well. Could Indonesian legal system, which is comparable to South Korea's *saemaul undong* in terms of significance, serve as a means of modernizing and developing the supply chain rural areas? It is intriguing, considering legal issues, not only concern on legislation materials but also the legal structure and legal culture of the society. Therefore, this paper describes and analyzes the legal substance side of the village, its legal structure and culture in carrying out the role of modernizing and reforming the village. The results of the study revealed that legal modernization as a means of village development have been carried out in several villages in Indonesia especially West Java, however this condition was also driven by an increase in the capacity of the apparatus to form village regulations and promulgation in village sheets.

Keywords— Law, Modernization, Development, Village, and Indonesia

1. Introduction

Modernization in sociology refers to a form of transformation from a pre-modern or an underdeveloped state to a better one, in hope of establishing a more progressive, developed, and prosperous community life [1]. Whereas development means a coordinated effort to legally produce more alternatives for each citizen to fulfill and to achieve their most humane aspirations.

The law could be a means of reforming the society.¹ Prior to that, Roscou Poun stated: *Law*

as a tool of social engineering. All those ideas imply that law plays a role in the development of society. The role of the law in development, is to ensure that “*perubahan*” (the change) occurs in a well-organized manner, as every society that is developing is characterized by “*perubahan*” (the change), regardless of how the change occurs and of how we measure “the developing society”.

However, when the *sollen* state above is juxtaposed with the *sein* state, there are many people who are still uninformed about the role of law as a means of modernization and development especially in supply chain rural areas [2]. A study in a number of villages in West Java even discovered a phenomenon where legal substance literally “vanished”, it's not found in village regulations. Fortunately, enactments of Village Regulations used to be included in Regional Reports (*Berita Daerah*) so they can be tracked back to the Regency. Now, as Law No.6 of 2014 on Villages which authorizes every village to constitute its own law in Village Gazette (*Lembaran Desa*) is in effect, it is intriguing to investigate whether village officials, particularly the village secretaries, have orderly archived the village regulations so that they will not “vanish”.

A village is regulated not only by the Village Government but also by supra-village institutions such as the Regency, the Province, even the Central Government. Thus, it gets interesting when there are no regulations in a village yet the development programs continue. Similarly, the law is a system that consists of legal substance, legal structure and legal culture. Therefore, in order to perceive the role of law in society the three components have to be simultaneously studied [3].

South Korea can be used as a reference, in regards of successful development of supply chain rural areas and agriculture as the country has managed to spur the growth of villages by *Saemaul*

¹ Mochtar Kusumaatmadja, *Pembinaan Hukum Dalam Rangka Pembangunan Nasional*, Bandung: Binacipta, 1986 edition, page 4).

Undong since the beginning of 1970s. At the beginning of 1950, South Korea was in a relatively similar state as Indonesia. Having been colonized for nearly 35 years (1910–1945) by Japan, South Korea had to endure the Civil War with North Korea in 1950–1953, driving the people's lives to hit rock bottom, with per capita income of merely US\$57 in 1953 and US\$67 in 1962 (cited from History of *Saemaul Undong*, Anonymous, downloaded in 2017, as well as from explanation from the officials of Embassy of Indonesia in Seoul during a meeting with authors on Tuesday, March 7, 2017).

The emergence of President Park Chung Hee in 1961 was the turning point of the economic development in South Korea. In 1962, President Park launched the first stage of Five Years Economic Development Plan, emphasizing on the efforts to increase food production and to modernize agricultural production system as well as to expand agricultural land [4]. Agricultural research and counseling systems were improved by appointing Supply chain rural Development Administration (RDA) as the shade organization for both systems (cited from History of *Saemaul Undong*, Anonymous, downloaded in 2017).

Literally, *Saemaul Undong* can be defined as New Village Movement. *Saemaul Undong* is a movement aimed to develop and to modernize supply chain rural areas. Its objective is to evoke the spirit of freedom and independence to realize the New Village Movement, and to build teamwork or mutual cooperation in order to improve the living standard of local community (cited from History of *Saemaul Undong*, Anonymous, downloaded in 2017).

In Special Region of Yogyakarta, early implementation of *Saemaul Undong* movement was carried out in three villages in Gunung Kidul, Kulon Progo and Bantul Regencies through collaboration between Province of Special Region of Yogyakarta and Gyeongsangbuk-do Province, South Korea, in 2008. Until now, the program has been successfully improved villages infrastructures, increased people's income, provided clean water, and enhanced villagers' work ethic (cited from History of *Saemaul Undong*, Anonymous, downloaded in 2017).

In the midst of the success of the *Saemaul Undong* movement in Yogyakarta, how exactly is village development in Indonesia? To answer that question, this study describes and analyzes village development in Indonesia, which is illustrated by the results of research in several villages in Tasikmalaya District, Sukabumi Regency, Majalengka Regency and Purwakarta Regency. From each of these regions researchers specifically want to see the legal aspects of modernizing and contributing to the development of villages in Indonesia.

2. Discussion

2.1. Legal Status and Challenges for Village Governments in the Reformation Era and Regional Autonomy

Under the law No. 6 of 2014 concerning villages, it is explained that the village is a legal community unit that has territorial limits that are authorized to regulate and manage government affairs, the interests of the local community based on community initiatives, origins, and traditional rights that are recognized and respected in the Republic of Indonesia government system [5]. When referring to this understanding, the village has a unique position in the Indonesian government system, especially since the reform era. As a community unit that has the right to regulate its own regional affairs, the village since the era of reform and regional autonomy has a great opportunity to take advantage of all its potential for the development of the village and the welfare of its people [6].

The villages act that was ratified in the reform era was authorized in order to strengthen the position of regional autonomy at the village level, on the other hand the act provides an opportunity for village governments to be able to make regulations that can be used as a legal basis for village governments in carrying out their duties in realizing modernization, development and community welfare [7]. When the world is growing rapidly and competition for prosperity is getting tougher, the active participation of village governments in development programs is urgently needed. With the autonomy granted, the village government can take part in compiling a work plan, carrying out and then evaluating its work program based on the benchmarks and achievements of regional development, whether that includes physical or non-physical development.

Providing greater authority to the village government basically is not only about giving rights, but also giving obligations. In the era of the New Order government, authority in all government affairs was carried out with a very centralized, in this condition then the rights of the regions and including the villages became reduced. In conditions where later the regime of government changed and autonomy was implemented, the village government had a great opportunity to exploit its rights. Furthermore, there was also an obligation for the village government to exercise its

rights in accordance with the procedures and demands of the community.

From the studied in several Indonesian village, especially in West Java Province, the context of the emergence of rights and obligations of the village government in modernizing and advancing their regions has a fairly close relationship with: community awareness, legal products, the impact of regulations on government, village government coordination with the government above (especially the Regency Government), how to make rules, and the leadership of the Village Head. Sangiang Village in Majalengka Regency, Parungseah Village in Sukabumi District, Jatiluhur Village in Purwakarta District, and Neglasari Village in Tasikmalaya Regency, are many villages that are considered to have legal instruments (village regulations) that regulate how the village government must exercise its rights and obligations, especially in terms of village development and community empowerment.

The other important things needs to be considered which related to the existence of village regulations in the reform era and regional autonomy is the formulation of regulations or laws needs to be based on the spirit of democracy, serving and siding with the interests of the people. On this basis, the compilation of village regulations must be carried out in a participatory manner, neither normative nor tends to be elitist or not closed, in other words the regulation must pay attention to the aspirations of all villagers.

The emergence of demands for reform and regional autonomy has encouraged many villages in West Java Province to develop legal products based on the interests of the community, it had been done since the village regulations were formulated up to the village regulations which were put into effect. The village community has been given the flexibility to give input on the draft policy or even criticize the implementation of village government policies as contained in village regulations.

2.2. Village Regulations as the Basis for Modernization and Development

Modernization and development in the village becomes a necessity when globalization continues to spread into Indonesia with the support of the development of information technology. The development of the world which is now is easily

known by the public, cannot be denied will influences the way of thinking, orientation and desires of the Indonesian people for the conditions they have felt so far, as for example the desire of the village community to feel modernization and development [8]. In response to the changing orientation and desires of the community, then several villages in West Java tried to create modern and IT-based development programs, such as in Neglasari Pamarican Village, Ciamis District, and Tenjoayu Village, in Sukabumi District. When this paper was written, the Tasikmalaya Regency government was making efforts to encourage Village-Owned Enterprises (BUMDes), the assistance provided by the district government was not only related to capital, but also partnerships and IT support. With these efforts, it is expected that BUMDes can lift all the potential in the village to be sold out so that later it will have an impact on the development and welfare of the people in the village.

The government's efforts to modernize and develop the village certainly need to be supported by a legal basis, such as village regulations. With the existence of this legal basis the efforts of modernization and development become a policy that runs on an ongoing basis. Below we collect several village regulations from several villages in West Java that are related to modernization and development efforts.

District / Regency: Village Name	Village Regulations
Majalengka Regency: Sangiang Village	<ol style="list-style-type: none"> 1) Village Regulation No.4 of 2016 on Sangiang Village's Community Institution (Lembaga Kemasyarakatan Desa Sangiang); 2) Village Regulation No.3 of 2014 on Draft Guidelines for Population Administration Fees (Rancangan Pedoman Pungutan Administrasi Kependudukan); 3) Village Regulation No.7 of 2016 on Sangiang Village Administration Fees (Pungutan Administrasi Desa Sangiang); 4) Village Regulation No.1 of 2016 on Village Government Work Plan (Rencana Kerja Pemerintah Desa); 5) Village Regulation No.8 of 2016 on Activities Implementation Team (Tim Pelaksana Kegiatan); 6) Village Regulation No.3 of 2016 on Organizational Structure and Work Procedure (Struktur Organisasi dan Tata Kerja); 7) Village Regulation No.6 of 2016 on Community Development Institution (Lembaga Pemberdayaan Masyarakat); 8) Village Regulation No.2 of 2016 on Sangiang Village Budget (Anggaran Pendapatan dan Belanja Desa Sangiang); 9) Village Regulation No.5 of 2016 on Youth Organization (Karang Taruna); 10) Village Regulation No.7 of 2015 on Establishment and Management of Village-owned Enterprises (Pembentukan dan Pengelolaan Badan Usaha Milik Desa).
Sukabumi Regency: Parungseah	<p>Products of law issued in relation to village modernization are:</p> <ol style="list-style-type: none"> 1) Village Regulation on Terms of Office for Heads of Neighbourhood Groups and Community Groups (Masa

Village	Jabatan RW dan RT) 2) Village Regulation on Appointments of Village Officials (<i>Pengangkatan Perangkat Desa</i>) 3) Village Regulation on Village Fees (<i>Iuran Desa</i>) 4) Village Regulation on Property of Village (<i>Tanah Kas Desa</i>) 5) Village Regulation on Village Government Work Plan (<i>Rencana Kerja Pemerintah Desa</i>)
Purwakarta Regency: Jatiluhur Village	1) Village Regulation No. 4 of 2014 on Medium-Term Development Program (<i>Rencana Pembangunan Jangka Menengah/RPJM-DESA</i>), 2) Village Regulation No. 2 of 2014 on Establishment of Village Community Institute (<i>Pembentukan Lembaga Kemasyarakatan Desa</i>) 3) Village Regulation No.1 of 2015 on Village Budget for Fiscal Year 2015 (<i>Anggaran Pendapatan Belanja Daerah Desa Tahun Anggaran 2015</i>).
Tasikmalaya Regency: Neglasari Village	1) Village Regulation on Village Joint Funding (<i>Urunan Desa</i>) 2) Village Regulation on Property of Village (<i>Tanah Kas Desa</i>) 3) Village Regulation on Village Government Work Plan (<i>Rencana Kerja Pemerintah Desa</i>). In addition to the three village regulations mentioned above, the government of Neglasari Village will also issue some decrees regarding census in each neighbourhood group (<i>Rukun Tetangga/RT</i>) and community group (<i>Rukun Warga/RW</i>).

Source: From various sources, 2018.

Looking at the legal substance in the form of village regulations above, it seems quite encouraging when compared to the existence of village legal products in other villages. Just mention it in Campaga Village and Mekarhurip Village, Talaga District, Majalengka District, when this report was made, these villages have not yet have a Village Regulation on Village Fee collection. Based on Article 69 paragraph (4) of Law No. 6 of 2016 about Villages, Village Regulation about fees collection is one of the Village Regulations that requires an evaluation by Regency/City Government on its enactment. Other Village Regulations that have to be evaluated by Regency/City Government are Village Regulations on Village Budget and Village Spatial Planning and Government Organizations.

The existence of these village regulations, such as the regulation on collection of fees will be very useful as a basis for legality of village officials to withdraw official levies, besides this regulation must also be based on the laws and regulations above (village law), if this village regulation contradicting the law, it can be evaluated and revoked. Village regulations on fee collection, for example: implemented in the context of village development programs and improving the quality of public services, without this regulation the village government can be considered to carry out illegal levies. Especially now, there is a joint task force that takes illegal charges.

The benefits of the existence of village regulations in many villages in West Java, Indonesia, can not only be seen from one side, but also can be seen from many sides [9]. Village

regulations have many links to other aspects besides aspects of village development, such as the pattern of coordination between the village government and the district government regarding the implementation of village regulations in the village. In addition, the community in the village can participate in providing input and evaluation of village regulations. This will encourage interaction between the residents and the village government. It also believed by a number of informants as an effort to encourage political participation of the residents at the village level [10].

From the villages that we have examined, since village regulations were formulated by the village government and the Village Consultative Body (BPD) until the regulation was implemented, the village heads and BPDs also involved the community to provide input. The behavior of the village head and BPDs as such shows a positive political behavior, because they are open to all input and information from the public. For them the interests of the community are the main thing, because the village regulations made must be able to encourage development, modernize the village and improve the welfare of the community

2.3 Changes in Legal Structure and Legal Culture in Village Regulations

In the era of reform and regional autonomy, one of the incentives for villages to modernize and develop one of them can be seen from the substance of village regulations governing the structure and culture of the village government. If the structure and culture of the village government is still oriented to the old pattern or does not follow the development and demands of the community, then there will be potential for the inhibition of modernization and development in the village.

From the villages that have been studied, the applicable village regulations have put forward the principle of structural change in the village government organization unit or village apparatus. Changes in the village structure stipulated in village regulations are intended to focus the work of the village government on efforts related to improving public services and community welfare. As an example is the change in the Village Community Resilience Institute (LKMD) to become an Institution for Community Empowerment (LPM), which means this institution grows from by, and for the community. With this

change, LPM becomes a vehicle for community participation and aspirations in planning, implementing and controlling development that relies on the community.

Other structural changes are also visible from the village nomenclature change, as follows: Formerly named Lebe now head of government affairs (Kaur) People's Welfare, formerly known as quicksilver earth now section Chief (Kasi) development, Formerly called ngalambang now Kaur Ekbang and the latter formerly kaur general and now the village police. In addition, regulations also affect the security of the village. The regulation of BUMDes (Village-Owned Enterprises) is also intended to enable the Village Government to utilize all economic potential, economic institutions as well as the potential of natural resources and human resources in order to improve the welfare of the village community. Other changes to the nomenclature related to the organizational structure of the village government are: Before the reform called the LMD (Village Council) and now the Village Consultative Body (Bamusdes), used to PKK was an extension of the Family Welfare Movement, now PKK stands for Family Welfare Empowerment. In the past, Hansip which stands for civil defense has been changed to Linmas, which stands for community protection, there used to be no hamlets, now there are hamlets.

The changes stipulated in village regulations are actually not only about changes in the structure and nomenclature of village government oriented to public services, cultural aspects also become other important things that are considered and then regulated in village regulations. An example is in Neglasari Village, Tasikmalaya Regency, where there are village regulations governing the issue of traditional villages, namely Kampung Naga. This village regulation is unique because there are no similar village regulations governing traditional villages. The existence of this regulation also shows that changes or the formation of a government structure can also be formed based on the wisdom of local culture that applies in the community.

Next, the number and function of staff in the village government. Previously there were only five staff in the village which resulted in overlapping tasks [11]. Now there are more staff in the village so, there is no overlapping of tasks. The existing village officials carry out the task of focusing on one area that is their responsibility.

And the last one is the requirement to become a village apparatus. Now the requirements are clearer, for example in age. Before the age of reformation era was not included in the acceptance criteria, all people had the opportunity to become village officials. But now it has been determined, that is, at least 25 years old to be able to join to become part of the Village Government.

The changes in the structure and nomenclature of village government organizations that must be more oriented towards efforts to improve community development and welfare, on the other hand also affect the awareness of the community in the village towards the use of rules, this is caused by the existence of clear rules. Apart from the existence of clear rules, another reason is due to the technological modernization. Clear and strict rules require village officials to socialize and carry out all their vision and mission. It is said to be strict because the sanctions and rewards are increasingly clear from the government structure above.

3. Findings

Even though Law No.6 of 2014 on Villages has already entered its third year, but the enactments of products of law in villages as stipulated by the Law as well as regulations concerning, their implementation have not been realized well. Law No.6 of 2016 requires specific official platforms for legal enactments in villages called Village Gazette (*Lembaran Desa*) and Village Reports (*Berita Desa*). The previous platform for legal enactments of products of law in a village was Regional Reports (*Berita Daerah*) of the regency/city in which said village was located. However, according to the results of authors' research in a number of villages in several regencies in West Java, village secretaries do not fully understand the function of Village Gazette (*Lembaran Desa*), its enactment, even less the necessity for Village Gazette (*Lembaran Desa*) in the first place. Similarly, authors were not able to find the existence of Village Reports in the villages that were the objects of authors' research.

Types of regulations in villages include Village Regulation (*Peraturan Desa* or *Perdes*), Joint Regulation of Village Chiefs (*Peraturan Bersama Kepala Desa*), and Village Chief Regulation (*Peraturan Kepala Desa* or *Perkades*). Article 69 paragraph (11) of Law No.6 of 2014

states that Village Regulation (*Perdes*) and Village Chief Regulation (*Perkades*) are enacted in Village Gazette (*Lembaran Desa*) and Village Reports (*Berita Desa*) by Village Secretary. Authors deem this provision at odds with similar provision in central, provincial or regional level governments. In Central Government, the State Gazette (*Lembaran Negara*) serves as an official platform for the legal enactments of Government Regulation in Lieu of Law (*Peraturan Pemerintah sebagai Pengganti Undang-Undang* or *Perpu*), Government Regulation (*Peraturan Pemerintah* or *PP*), Presidential Regulation (*Peraturan Presiden* or *Perpres*) and other Regulations which must be enacted in the State Gazette (*Lembaran Negara*) as stipulated in Article 82 of Law No.12 of 2011. Whereas the State Reports (*Berita Negara*) serves as an official platform for the legal enactments of Regulations, according to Article 83 of Law No.12 of 2011, must be enacted in the State Reports (*Berita Negara*). However, in practice the State Reports also serve as a platform for announcements such as a missing land certificate and publish public letters that are considered necessary such as certificates of incorporation of an incorporated company (*Perseroan Terbatas* or *PT*), a firm (*firma*), or a cooperative (*koperasi*) and naturalization papers, and so forth. Thus, it is clear that the State Gazette (*Lembaran Negara*) and the State Reports (*Berita Negara*) have different functions.

Similarly, in provincial or regional level, the functions of the Regional Gazette (*Lembaran Daerah*) and Regional Reports (*Berita Daerah*) are differentiated by Law No.12 of 2011 on the Formulation of Regulations. Article 86 paragraph (1) of Law No.12 of 2011 states that regulations that are enacted in the Regional Gazette (*Lembaran Daerah*) are Provincial Regulation (*Peraturan Daerah Provinsi*) and Regency Regulation/City Regulation (*Peraturan Daerah Kabupaten/Peraturan Daerah Kota*). Whereas paragraph (2) of the same Article states that Governor Regulation (*Peraturan Gubernur*) and Regent Regulation/Mayor Regulation (*Peraturan Bupati/Peraturan Walikota*) are enacted in the Regional Reports (*Berita Daerah*). But why does Article 69 paragraph (11) of Law No.6 of 2014 state that Village Regulation (*Perdes*) and Village Chief Regulation (*Perkades*) are enacted in Village Gazette (*Lembaran Desa*) and Village Reports (*Berita Desa*)?

In practice, whenever Village Secretaries were inquired about Village Gazette (*Lembaran Desa*) and Village Reports (*Berita Desa*), they were perplexed. They did not seem to understand that both concepts must be literally tangible. They assumed that the words at the end of each village regulation which say: *In order to let everyone knows, this Village Regulation shall be enacted in Village Gazette (Lembaran Desa) and Village Reports (Berita Desa)* aborted their obligations related to the enactment. When asked about the existence of Village Gazette (*Lembaran Desa*) and Village Reports (*Berita Desa*), they got confused. They might be wondering what kind of “creatures” these Village Gazette (*Lembaran Desa*) and Village Reports (*Berita Desa*) are. It wasn’t until authors informed them about the nature of enactment which includes the legal force (*kekuatan hukum*), the binding force (*kekuatan mengikat*) and operative force (*kekuatan berlaku*) that they had a better understanding on the matter. Moreover, when authors explained about one of the principles of law called “*recht fictie*” or legal fiction, Village Secretaries expressed their gratitude and promised to start archiving all village regulations that have ever been issued in a book as stipulated by the Regulation of Minister of Home Affairs No.47 of 2016 on Village Administrative Book. All this time, the village regulations were scattered without any permanent platform for their enactments.

An enactment is essential for the implementation of a regulation since it provides a regulation with *validity* and *efficacy*, which means that by being enacted, a regulation becomes valid and comes into effect. The legal consequences of an enactment are related to an adagium of law that says “*men wordt geacht de wet te kennen*”, which means that mankind is assumed to know the law (legal fiction). Thus, with an enactment, a regulation shall have a binding force over the public. An enactment contains 3 legal consequences: it provides legal force (*kekuatan hukum*), when the regulation has been passed; it provides binding force (*kekuatan mengikat*), when the regulation has been enacted; and it provides operative force (*kekuatan berlaku*), when the regulation has been put into effect.

Thus, there are some suggestions to overcome this problem. **First**, it is *condition sine quanon* to increase the capacity of Village Secretaries all across Indonesia that have been granted authority by the Law to enact important

regulations in Village Governance. Not only do they have to understand the techniques of enactment but also the nature of enactment itself in regard to the legality, efficacy, validity and authenticity of a product of law in villages. **Second**, revise Law No.6 of 2014 on Villages particularly Article 69 paragraph (11) to determine either Village Gazette (*Lembaran Desa*) or Village Reports (*Berita Desa*) as the official platform of legal enactment. Authors deem it more appropriate to assign Village Gazette (*Lembaran Desa*) as the platform of legal enactments for Village Regulation (*Perdes*) and Village Chief Regulation (*Perkades*), whereas Village Reports (*Berita Desa*) are utilized as a platform for announcements just like the common practice in the central, provincial or regional level governments. **Third**, until legal enactment finally can be implemented well in villages, it is better to maintain the current practice of enacting village regulations in Regional Reports of the Regency/City to prevent village archives from vanishing, since village regulations play a vital role as legal ground for both village officials and the people of the village as well as a means of modernization and development in villages. Based on authors' experience, when authors investigated about village regulations that were issued during the New Order Era (*Era Orde Baru*), most of the regulations could only be found in the Regional Reports of the Regency. Now that villages have been granted the authority by the Law to carry out the legal enactment, there are no excuses for them not to do it. If they still fail to do it, it would be like a Sundanese proverb: *moro julang ngaleupaskeun peusing*.

4. Conclusion

Based on illustration above, some conclusions and suggestions concerning legal aspects of modernization and development in a number of villages can be drawn and they are as follows:

1. There needs to be an improvement in village officials' capacity in making the regulations and their enactments in *Lembaran Desa* (Village Gazette) since it can be a means of modernization and development in villages.
2. It is essential to preserve village archives including products of law concerning the villages, since older village archives tend to

vanish whenever there is a change of village top officials. There needs to be a continuity of development by transforming the archive system in villages to Electronic Filing System.

3. The understanding of village officials, staff members of Village Consultative Body (*Badan Permusyawaratan Desa/BPD*) and the people of the village about the role of law as a means of reformation in villages needs to be continuously improved through legal counseling, socialization of regulations, expansion of capacity and so forth.
4. The Government needs to be innovative and takes the initiative to establish new institutions in villages which will be beneficial for the democratization, empowerment, and public service.

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